

AB 2372 – PUBLIC PROJECTS: BIDDING

Assemblymember Fran Pavley

IN BRIEF

Would penalize cities, counties and special districts that repeatedly violate the California Uniform Public Construction Cost Accounting Act.

THE ISSUE

In a recent case brought before the California Uniform Public Construction Cost Accounting Commission (CUPCCAC), a jurisdiction was found to be out of compliance for four projects within a three month period.

Although CUCCAC has the authority to make certain rule changes, they lack the authority to penalize a governmental entity that violates the act. Legislation is needed to ensure that government entities violating the CUCCAC act are not entitled to the benefits afforded to members in good standing.

The CUCCAC agreed by resolution, that if a jurisdiction is found to be out of compliance three times within ten years, the privilege of a higher threshold should be revoked and the public entity's force account and bidding limit should revert back to the original amount they were entitled to before electing to become signatory to CUCCAC. This lower bidding threshold would be in effect for five years.

EXISTING LAW

The original legislation, passed in 1984 (created the CUCCAC), was an attempt to extract public construction force account and bidding requirements from other codes and put them into one code -- the Public Contract Code. Currently, there are almost 540 cities, counties and special districts that are signatory to CUCCAC. When they become signatory, they agree to abide by the accounting and advertising rules set forth by the Commission.

The Commission's purpose is to settle disputes about whether or not a public works project should be competitively bid, among other things. The Act also defined the limits of "force account" work and sets the bidding thresholds. When a State or local governmental agency is challenged regarding the use of "force account" (which refers to the use of public employees or day labor) or the need for competitive bidding, the Commission performs an audit of the public agency's books to make a determination. The Commission is the only place for dispute resolution outside of the Court system. It potentially saves agencies and contractors who participate thousands of dollars in legal costs.

The only sanction for an out-of-compliance jurisdiction is that the jurisdiction must hold a public hearing as part of their Council's, Board's or Commission's regular meeting, at which time, a representative from CUCCAC presents the case and the findings to the Council and the interested public

THE SOLUTION

AB 2372 would give the CUCCAC the following authority: If a jurisdiction is found to be out of compliance three times within ten years, the privilege of a higher threshold will be revoked and the public entity's force account and bidding limit will revert back to the original status before becoming a member. The penalty would last for five years.

SUPPORT

State Building and Construction Trades Council of California- Sponsor

FOR MORE INFORMATION

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